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Edward Jones

VIA UPS

Qctober 2, 2003

Jonathan G. Katz
Secretary
U.S. Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, DC 20549-0609

Re: File Nos. SR-NYSE-2002-36 and SR-NASD-2002-162

Dear Mr. Katz:

Herewith please find eight (8) copies of the comments of Edward D. Jones & Co., LP on the above-referenced releases.

If you have any questions, please contact the undersigned at (314) 515-9715.

Sincerely,

Pamela K. Cavness / CC-S

Pamela K. Cavness
Director of Compliance

enclosures

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Jonathan G. Katz
Secretary
U.S. Securities and Exchange Commission
50 Fifth Street, N.W.
Washington, D.C. 20549-0609

Re: File Nos. SR - NYSE - 2002 - 36 and SR - NASD - 2002 - 162 (the "Proposals")

Dear Mr. Katz:

Edward D. Jones & Co., LP ("Edward Jones " or "the Firm") hereby submits its comments on the dual proposals of the NYSE and NASD to enhance supervisory control procedures. The Firm supports these measures but requests three clarifications. In sum, these three requests seek mainly to ensure that the Firm will be able to continue certain of its supervisory practices relating to office visits and the personnel who conduct these visits. As Edward Jones believes the majority of its concerns expressed herein are specific to the Firm's supervisory structure, a detailed explanation of that structure commences this comment letter.

Background

Edward Jones is a member of the NASD, the New York Stock Exchange, and the Chicago Stock Exchange. The Firm is a full service broker/dealer serving more than five million customer accounts from over 8,200 offices throughout the 50 stales. These offices are staffed by Firm employees, and the Firm does not utilize franchisees or independent contractors. The overwhelming majority of Edward Jones offices employ a sole registered broker ("Investment Representative", or "IR") and an unregistered assistant.

The Firm's main Office of Supervisory Jurisdiction ("OSJ") is its headquarters in St. Louis, Missouri, where it maintains three campuses housing over 3,000 employees ("Headquarters") Additionally, as part of its business continuity plan, Edward Jones maintains a location in Tempe, Arizona. This facility, which houses over 100 employees, operates a data center and, training, trading, operational, and service functions.

Edward Jones' customers are almost entirely "non - institutional" (*i.e.*, individuals and small businesses). The Firm presently executes approximately 40,000 trades a day, on average, in either listed or OTC stocks and mutual funds; the Firm also executes trades in annuities and fixed income products and acts as market maker in twelve issues. Edward Jones does not engage in the trading of options, warrants or commodities, and the Firm does not offer "on-line" trading. Similarly, the Firm does not permit discretionary accounts. Customers wishing to employ an account manager (if meeting significant asset requirements) are directed to a short list of outside managers utilized by the Firm as part of its Managed Assets Program, currently comprising less than 3% of all customer accounts.

Supervisory Structure of Edward Jones

The Firm does not utilize a traditional branch office manager system. Edward Jones supervises its registered sales force through a combination of manual and technological surveillance. This long-standing system has been both publicly acknowledged for its efficiency by regulators[1] and credited by the press for its successes.[2]

Specifically, the Firm employs dedicated supervisors called Field Supervision Directors ("FSDs"), all of whom work in St. Louis. FSDs are organized into teams assigned to geographic regions throughout the 50 States. Each team is headed by a "Team Leader".

FSDs, who are qualified supervisory principals, employ a combination of daily, weekly and monthly computerized notices to monitor broker activity. The compensation for FSDs is not tied to any particular trade, IR production, regional sales or office revenue; FSDs are compensated by a flat salary and, like all headquarters employees, are eligible for bonus based upon factors such as performance reviews and the Firm's overall profitability.

Branch office visits are conducted by FSDs for a variety of reasons, including 1) an annual review (the timing of which is governed by, among other things, a scheduling matrix), or 2) trading activity or a regulatory inquiry that triggers a visit "for cause". A separate team may also conduct visits as part of an internal oversight program that randomly "re-visit" branches as part of existing controls. In no case does any personnel conducting these visits derive any override, revenues or compensation from production generated by the office visited.[3]

Finally, pursuant to a 1999 agreement with the NYSE, the FSD who conducts the daily supervision of a branch office does not also conduct the annual audit of that office, nor is their any reporting relationship between *these* two individuals.

Requests for Clarification

The Firm agrees with both the NYSE and the NASD that the measures put forth by the Proposals cannot exist simply as "best practices." Further, the Firm lauds the spirit of the Proposals, the letter of which often serves to codify existing interpretations and commonly accepted principles. However, Edward Jones is concerned that the current amendments - and the attention paid thereto - may result in Firm FSDs being "lumped in" with branch office managers or regional managers for purposes of examinations by regulators. This concern is not farfetched: earlier this year, a state securities regulator specifically

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[1] *See* the comments of S.E.C. Chairman Arthur Levitt to the Securities Industry Association (Boca Raton, November 1997 ("In St. Louis, Edward D. Jones has designed a supervisory structure that's unique in the industry, where supervisors report to the compliance department, thus maintaining a wall between sales and supervision."), and also the generalized comments of the NYSE in its proposal to amend Rule 342 in January 2001 ("Adoption of the interpretation will eliminate the current provision...that a manager may be responsible for only two small offices that are in close geographical proximity. Given modern electronic surveillance techniques, this limitation regarding number of offices and geographical location is no longer necessary.")(emphasis added).

[2] *See* The Wall Street Journal, May 14, 2002 at D2 (On the topic of increasing numbers of customer complaints: "Among the firms with the best records...[are] Edward D. Jones & Co., which traditionally has focused on conservative stocks." [citing 8.09 customer actions per million accounts]), and also "Order! Order!", *SmartMoney* magazine, August 2000, at p. 119. The article noted that between January 1997 and April 2000, Edward Jones paid on average, less than a penny per account in terms of customer arbitration awards.

[3] In recent years, the Firm, by mutual agreement with the NYSE, which serves as its Designated Examining Authority, has arranged for its Regional Leaders to conduct the initial "on-site inspection" as contemplated by existing NYSE Rule 342 for branches operated by an IR with less than six months experience. In all cases, these branches are subject to an additional branch office examination. This initial "on-site inspection," which is normally conducted within seven days of the opening of a Firm office, is designed to reiterate to the new IR basic requirements of serving and documenting customer accounts. It bears noting that Regional Leaders, who are experienced IRs who have earned the additional title based upon years of service to the Firm, are compensated based solely upon their own production, and their income is not tied to the profitability of new or any other offices in their assigned geographic region.

requested of the Firm proof of compliance with the pending "controls" proposals even though the bulk of the new measures, which speak to conflicts of interest among producing supervisors, clearly do not apply to Edward Jones' structure or practice.

Edward Jones thus requests clarifications of several of the rule changes included in the Proposals. These four clarifications, all of which deal with specific subdivisions of rules on supervision, are addressed below.

I. Content of branch office examinations [re. NYSE Rule 342.03 and NASD Rule 3010(c)(2)]
The Proposals both include six mandatory categories of review as part of each branch office inspection: 1) safeguarding of customer funds and securities; 2) maintaining books and records; 3) supervision of customer accounts served by branch office managers; 4) transmittal of funds between customers and registered representatives and between customers and third parties; 5) validation of customer address changes; and 6) validation of changes in customer account information. Additionally, the Proposals would require that these six areas be "tested and verified," with the resulting written report kept on file at the firm for a minimum of three years.

The Firm believes that if one or more of such items requiring independent verification are already independently reviewed by use of a centralized system - as is the case at Edward Jones - no separate review should be required at the time of the annual branch inspection. For example, some of the procedures serving to safeguard customer funds now exist in the form of surveillance of deposit entries made to Firm computer records. Also, verification letters seeking to detect improper address changes emanate from Headquarters. For the Firm to repeat these and other tests during a branch audit would be costly, time-consuming, and inefficient, clearly in stark contrast to NASD's comment that its reforms are intended to provide flexibility and "avoid undue burdens and costs."[4]

Simply put, the Firm wishes to avoid the cost and complications resulting from having to replicate, at each branch office, reviews that are already completed and documented. Of course, the Firm fully understands that any clarification relieving the Firm from this duplicative burden will in no way relieve the Firm's obligations to make records from such review promptly accessible to regulators and examiners, wherever located.

Edward Jones thus respectfully submits that its current supervisory system, which combines records maintained at Headquarters in accordance with S.E.C. books and records rules with audit reports generated for each branch office (and similarly retained), satisfies the new requirements. Such an acknowledgment in the adopting releasing would preserve the Proposals' goal of uniformly documented office reviews while not proving those measures to be so rigid as to force the Firm to alter its practices.

II. Personnel who may conduct branch office examinations [re. NYSE Rule 342.03 and NASD Rule 3010(c)]
Proposed NYSE Rule 342.03 states the following, in relevant part:

> All required inspections must be conducted by a person who is independent of the direct supervision or control of the branch office (i.e., not the Branch Office Manager, or any person who reports to such Manager, or any person to whom such Manager directly reports).

The accompanying explanatory language from the NYSE reiterates, "While these guidelines need not exclude all participants at every level of a branch office's hierarchal supervisory structure, the Exchange believes it is reasonable that they exclude the branch manager, any person to whom the branch manager directly reports, and any person who reports to the branch manager."[5]

Because of the Firm's somewhat unique structure, an FSD Team Leader who occasionally "fills in" for an FSD by auditing a branch assigned to the FSD would now theoretically be precluded from such

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[4] *See,* for example, p. 48427 of *the* NASD *Proposal.*
[5] NYSE Proposal, at p. 48435.

assignments by the new rules. Specifically, as the person to whom the Firm's equivalent of a branch office manager "directly reports", the Team Leader would not be permitted to audit any branch office normally audited by an FSD on his/her team.

If designated supervisors are independent from brokers in the branches in terms of compensation and have no responsibility for sales management, they should be permitted to conduct the annual branch inspection. Stated otherwise, if the lines of reporting for supervisors are completely separate from the lines for those with responsibility for sales, the supervisors are, by definition, independent, and, moreover, arguabiy in the best position to conduct branch inspections.

Accordingly, the Firm would respectfully request that the final release clarify that determinations of independence by a firm might outweigh strict observance of exclusions caused by reporting lines. Such a construction appears to be completely in step with the intent of the NYSE, which stated in its Proposal that "in order for a branch inspection program to be effective, reasonable guidelines must be in place to minimize conflicts of interest."[6]

III. Independent Testing and Verification (NYSE Rule 342.23 and NASD Rule 3012(a)(1)

Proposed NYSE Rule 342.23 ("Internal Controls") would obligate firms to establish procedures providing for "independent verification and testing" of each business activity.[7] In response to requests from commenters for guidance as to who would be sufficiently "independent" to perform "verification and testing," the NYSE stated that firms would be expected to make "an informed determination that persons responsible for verification and testing of business activities are sufficiently independent and qualified to do so effectively."[8]

Proposed NASD Rule 3012(a)(1) would require firms to designate one or more principals who will "establish, maintain, and enforce a system of supervisory control policies and procedures" that test and verify that supervisory procedures are "reasonably designed to achieve compliance" with applicable rules and laws. The NASD Proposal clarified that NASD removed the prior requirement that the designated person(s) be "independent" but also cautioned that all testing and verification should be conducted in a manner "independent of a member's countervailing business considerations."[9]

For all the reasons detailed above, the Firm seeks clarification that, where controls are administered centrally and separate from any producing IR, the controls are, by definition independent and need not be tested separately for each of 8200 branch offices. Periodic testing should be performed by persons independent from the IR or branch. Such testing could be performed by FSDs, Compliance personnel or Internal Audit or any other group that 1) does not report to branch office personnel, and 2) derives no income from office production.

Additional Consideration: Time and Price Discretion Limitation (NASD Rule 2510 and NYSE Rule 408)

The Proposals, with minor distinctions, both seek to amend existing rules to limit the oral granting of time and price discretion to a maximum time period of one business day. Edward Jones takes no position on this limitation but asks for clarification in view of a specific planned practice described below.

The Firm is presently contemplating the adoption of a form that, upon signature by the customer, would authorize an IR to deposit checks for minor amounts received from the customer for the purpose of increasing the customer's existing position in a mutual fund. IRs would simply purchase as many additional shares possible with the newly deposited funds. Such a practice would seem to conform to existing rules, as evidenced by some of the interpretative language present in the Proposals.[10] However,

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[6] NYSE Proposal, at p. 48435.

[7] NYSE Rule 342.23 goes on to instruct that firms should prioritize the review of all business activities as part of an "ongoing analysis."

[8] NYSE Proposal, at p. 48434.

[9] NASD Proposal, at p. 48425.

[10] *See*, for example, NYSE Proposal, at 48434 ("The current text of NYSE rule 408(d) clearly limits the

if the Proposals dictate that such a simultaneous check deposit and purchase by the IR constitutes an exercise of discretion (thus warranting the execution of a full discretionary trading authorization by the customer), the Firm will not implement the practice. Concurrently, the Firm respectfully requests that the final release expressly address whether such pre-arranged deposit practices shall be prohibited by new rules 2510 and 408.

Conclusion

Edward Jones is cognizant of the facts that scandals in recent years have prompted the two major Self Regulatory Organizations to seek to strengthen existing prohibitions in a manner that divorces supervisor revenue from the supervision of the trading activity underlying that revenue. Further, the Firm acknowledges that both the NYSE and NASD, through their various amendments to the Proposals over the past year, have sought to clarify the Proposals in a manner that provides for flexible yet ready application to varying business models. While supporting the text and spirit of the Proposals, the Firm nonetheless requests minor modifications to the accompanying language that would serve to eliminate possible confusion among the Firm's regulators (while reiterating the purposes behind the reforms). Such minor additions' which essentially seek only to confirm the flexibility that permeates the history of the Proposals, would go a long way towards streamlining the Firm's supervisory efforts and the examinations conducted by the Firm's various regulators.

If you have any questions, please feel free to contact the undersigned at (314) 515 - 9715.

Sincerely,

Pamela K Cavness / CC-S

Pamela K. Cavness
Director of Compliance

cc: Annette Nazareth, Director, Division of Market Regulation' S.E.C.
Robert L.D. Colby, Deputy Director, Division of Market Regulation, S.E.C.
Edward A. Kwalwasser, Group Executive Vice President, NYSE
Mary L. Schapiro, President, NASD
Elisse B. Walter, Chief Operating Officer and Executive Vice President' NASD

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exercise of time and price discretion to 'the purchase or sale of a definite amount of a specified security... Any written authorization granting time and price discretion must comply with this established, trade-specific standard. Customers who wish to grant more extensive discretionary authority to their registered representatives may do so pursuant to a fully executed trading authorization...").